

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to amend sections 101-03 and 102-06 of Chapter 100 of Title 1 of the Rules of the City of New York regarding the Homeowner Resolution Program that gives owners of one- and two-family homes who have not received any prior violations at the property within the past five years an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties. The amendments clarify various provisions of the program.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11 a.m. on October 30, 2024.

- Join through Internet – Desktop app:

To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts to either continue using the browser or download/open the Teams desktop app.

<https://events.qcc.teams.microsoft.com/event/97756cae-6637-4230-a5e0-1a67f81749cf@32f56fc7-5f81-4e22-a95b-15da66513bef>

Enter your name when prompted and click the “**Join now**” button. If you don't have computer audio or prefer to phone in for audio, select “**Phone audio**” under “**Other join options**” then click the “**Join now**” button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the Phone audio option for the hearing. This will reduce the possibility of dropped audio and stutters.

- Join through Internet - Smartphone app:

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<https://events.qcc.teams.microsoft.com/event/97756cae-6637-4230-a5e0-1a67f81749cf@32f56fc7-5f81-4e22-a95b-15da66513bef>

When prompted select “Join meeting”. Type your name and then select “Join meeting” again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

Alternatively, open the Teams app and select “Join a meeting”. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select “Join meeting”.

Meeting ID: 267 351 238 822

Passcode: Niv3eC (Code is case sensitive)

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: [+1 646-893-7101](tel:+16468937101)

Phone Conference ID: 343 289 762#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DOB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up by emailing dobrules@buildings.nyc.gov by October 23, 2024 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes, you must submit comments by October 30, 2024.

What if I need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by October 16, 2024.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are hearing impaired, and audio only access for those who are visually impaired.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all comments submitted online, copies of all written comments and a summary of

oral comments concerning the proposed rule will be available to the public at the Office of the General Counsel and may be requested by email at dobrules@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, and Article 208 of Chapter 2 of Title 28 of the New York City Administrative Code authorize DOB to make this proposed rule. This proposed rule was not included in DOB's regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

Where can I find DOB's rules? DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE

Section 102-06 of Chapter 100 of Title 1 of the Rules of the City of New York is being amended to clarify the provisions of the Homeowner Resolution Program that gives owners of one- and two-family homes who have not received any prior violations at the property within the past five years an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties.

Specifically, the proposed amendments:

- limit applicability of the program to existing buildings, excluding new construction, which must abide by strict construction safety standards;
- remove the eligibility of violating conditions that result in a Stop Work Order or a Vacate Order;
- allow for owners of properties to be assessed a re-inspection fee and issued a violation for conditions that still exist after the 60-day no-penalty grace period has passed and acceptable proof of correction has not been provided to the Department.

The reinspection fee in section 101-03 is being amended to align with proposed changes to section 102-06.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Article 208 of Chapter 2 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

Section 1. Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

Reinspection made necessary by a failure to correct a condition or respond to a request [to correct that results in issuance of a violation or other order] <u>for corrective action.</u>	\$225 each inspection
---	-----------------------

§2. Section 102-06 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

§102-06 Homeowner resolution program. Owners of one- and two-family homes who have not received any prior violations at the property will have an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties.

(a) **Applicability.** The homeowner resolution program applies to owners of existing one- and two-family homes, whether or not they occupy those homes, [to whom] where prior Department notices of violations returnable to the Environmental Control Board/Office of Administrative Trials and Hearings (ECB/OATH) have not been issued at the property within the past five years, whether or not the current owner owned the property during those five years. [The program shall also apply to new owners, where the violations on the property were issued within the past five years to a prior owner.]

(b) **Eligible violations.** This program covers violations classified as Class 1, Class 2 or Class 3 in subdivision (k) of section 102-01 of these rules. Multiple violating conditions observed on the same date are considered as one [violation for the purposes of this program] request for corrective action. Any repeated instance of the same violating condition is ineligible for this program and will result in the issuance of a notice of violation.

Exceptions. This section does not apply to Class 1 violations for illegal conversions as described in section 28-210.1 of the Administrative Code, Class 1 violations that result in the issuance of a Stop Work Order or a Vacate Order and Class 1 violations that lead to death or serious injury.

(c) **Request for corrective action.** Where a violating condition is observed at a property that is part of this program, the commissioner will issue a request for corrective action, giving the owner 60 days to correct the condition. In order to resolve a request for corrective action, the owner must correct the condition and submit acceptable proof of correction to the Department within such 60 days. The Department may perform an inspection upon receiving such proof of correction in order to verify that such conditions have been corrected.

(d) Failure to correct condition. [If, upon reinspection at] At the expiration of the 60-day correction grace period, [an inspection finds that the violating condition has not been corrected,] a notice of violation returnable to ECB/OATH based on the conditions observed and documented on the request for corrective action will be issued to the owner for each condition for which correction has not been verified as described in subdivision (c).

(e) Fee. [In addition to receiving a notice of violation, for Class 1 violations as described in subdivision (b), the] The owner will be charged a fee for [the inspection that results in the issuance of such notice of violation] any reinspection made necessary by a failure to respond to a request for corrective action, as provided in section 101-03 of these rules.

(f) Removal from program. An owner who receives a notice of violation returnable to ECB/OATH after [either] failing to correct the violating condition within the provided timeframe [or failing to provide access to an inspector to determine if the violating condition has been corrected] in the request for corrective action is no longer eligible for this program [and must comply with the requirements in section 102-01 of these rules]. The violating condition must still be corrected and any applicable penalty associated with any such notice of violation issued must be paid.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Relating to Homeowner Resolution Program

REFERENCE NUMBER: 2024 RG 088

RULEMAKING AGENCY: Department of Buildings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: September 16, 2024

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Relating to Homeowner Resolution Program

REFERENCE NUMBER: DOB-188

RULEMAKING AGENCY: Department of Buildings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period but provides 60 days to correct violating condition.

/s/ Francisco X. Navarro
Mayor's Office of Operations

September 16, 2024
Date